

ROXANNE ADAMS, ADMINISTRATOR OF
THE ESTATE OF JAMYCHEAL M. MITCHELL
Deceased,

Plaintiff,

v.

NAPHCARE, INC. et al.,

Defendants.

V.

Defendant NaphCare, Inc. [“NaphCare”], by counsel, for its Answer to the Crossclaim filed against it by Defendant Hampton Roads Regional Jail Authority [“HRRJA”], states as follows:

1. NaphCare admits the allegations contained in Paragraph 1 of the Crossclaim.
2. Paragraph 2 of the Crossclaim does not contain allegations, or contains only legal conclusions to which no response is required.
3. NaphCare admits that its health care providers including mental health professionals provided care and treatment to Jamychael Mitchell [“Mitchell”]. NaphCare further admits that during the time that Mitchell was at the Hampton Roads Regional Jail [“HRRJ”], Mitchell was sent to Maryview Medical Center for treatment. NaphCare further admits that at no time did a NaphCare health care provider advise HRRJA, its administrators, or jail officers, that Mitchell was suffering from a life-threatening condition. Further responding, NaphCare lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in the first four sentences of Paragraph 3 of the Crossclaim and they are therefore denied. The

remaining allegations in Paragraph 3 of the Crossclaim and those not specifically admitted are denied.

4. NaphCare admits the allegations contained in Paragraph 4 of the Crossclaim.

COUNT I – BREACH OF CONTRACT

5. NaphCare incorporates and restates its responses to Paragraphs 1-4 of the Crossclaim as if set forth fully herein.

6. The allegations in Paragraph 6 are denied as phrased. Further responding, NaphCare admits that on May 3, 2012, NaphCare contracted with HRRJA to provide medical, dental and mental health services to inmates of the HRRJ pursuant to a proposal submitted to HRRJ entitled “Comprehensive Inmate Medical, Dental, and Mental Health Services to Hampton Roads Regional Jail” and in response to a request for proposals “To Provide a Comprehensive Medical, Dental, and Mental Health Services Program for Inmates of the Hampton Roads Regional Jail.”

7. NaphCare admits that the language contained in Paragraph 7 of the Crossclaim is found in the Request for Proposals dated February 17, 2012. Further responding, the allegations are denied as phrased.

8. NaphCare admits that the language contained in Paragraph 8 of the Crossclaim is found in the Request for Proposals dated February 17, 2012. Further responding, the allegations are denied as phrased.

9. NaphCare admits that the language contained in Paragraph 9 of the Crossclaim is an excerpt from the Request for Proposals dated February 17, 2012. Further responding, the allegations are denied as phrased.

10. NaphCare denies the allegations contained in Paragraph 10 of the Crossclaim.

11. NaphCare denies each and every allegation contained in Paragraph 11 of the Crossclaim. Further responding, NaphCare denies that Plaintiff is entitled to the relief requested in the Complaint, denies breach of any duty owed, denies breach of any contract between itself and the HRRJA, and denies that it is or would be indebted to the HRRJA in any way or for any sum as alleged.

12. To the extent Paragraph 12 of the Crossclaim contains allegations, they are denied. Further responding, NaphCare denies a breach of any contract between itself and the HRRJA.

COUNT II - INDEMNIFICATION

13. NaphCare incorporates and restates its responses to Paragraphs 1-12 of the Crossclaim as if set forth fully herein.

14. NaphCare admits only that the language contained in Paragraph 14 of the Crossclaim is an excerpt found on page 37 of the Request for Proposals. Further responding, Paragraph 14 sets forth legal conclusions to which no response is required. Should a response be required, Paragraph 14 is denied as phrased.

15. NaphCare denies the allegations contained in Paragraph 15 of the Crossclaim.

16. NaphCare denies the allegations contained in Paragraph 16 of the Crossclaim.

17. NaphCare lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 17 of the Crossclaim that concern whether or not Plaintiff is entitled to recover against HRRJA. Further responding, NaphCare denies the remaining allegations contained in Paragraph 17 of the Crossclaim.

18. NaphCare admits that the HRRJA has made a demand as described in the Crossclaim and that the demand letter is attached as Exhibit 2 to the Crossclaim. The remaining allegations are denied.

19. The allegations contained in Paragraph 19 of the Crossclaim call for legal conclusions to which no response is required. Should a response be required, the allegations are denied.

20. With regard to the “WHEREFORE” paragraph of the Crossclaim, NaphCare denies that the HRRJA is entitled to the relief requested under the Crossclaim.

21. All allegations not expressly admitted herein are denied.

22. Pursuant to Federal Rule of Civil Procedure 8(b)(5), all allegations to which NaphCare has asserted that it lacks knowledge or information sufficient to form a belief about the truth of those allegations are to be treated as denied.

AFFIRMATIVE DEFENSES

1. The HRRJA’s Crossclaim is barred or reduced by its own contributory negligence.

2. The HRRJA’s Crossclaim is barred by the doctrines of estoppel or unclean hands.

3. NaphCare incorporates by reference, as if set forth fully herein, the Affirmative Defenses set forth in its Answer to the Complaint filed against it by Plaintiff.

WHEREFORE, NaphCare, Inc. prays for dismissal of the Crossclaim filed against it by the HRRJA, for judgment on NaphCare’s behalf, as well as for costs, interest, and for any other relief the Court deems just and proper.

Respectfully submitted,

NAPHCARE, INC.

/s/

Edward J. McNelis, III, VSB No. 34003

Grace Morse-McNelis, VSB No. 75957

Christopher F. Quirk, VSB No. 88238

RawlsMcNelis, PC

211 Rocketts Way, Suite 100

Richmond, VA 23231

(804) 344-0038 (phone)

(804) 782-0133 (fax)

emcnelis@rawlsmcnelis.com

gmorsemcnelis@rawlsmcnelis.com

cquirk@rawlsmcnelis.com

*Counsel for Defendants NaphCare, Inc.,
Renee Edwards, LCSW, Justin Ray, NP-
Psych, Benedict Ngwa, NP, Pam Johnson,
RN, Natalya Thomas, RN, HSA, Jalessa
Rivers, LPN, Hope Nicholson, MA and
Doris Murphy, MSW, and Nsekenene
Kolongo, MD*

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of September, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Mark J. Krudys, Esq.
The Krudys Law Firm, PLC
Sun Trust Center
919 East Main Street, Suite 960
Richmond, VA 23219
mkrudys@krudys.com
Counsel for Plaintiff

Ryan Furgurson, Esq.
Gregory F. Holland, Esq.
Setliff & Holland, P.C.
4940 Dominion Boulevard
Glen Allen, Virginia 23060
rfurguson@setliffholland.com
gholland@setliffholland.com
Counsel for Defendant Gail Hart

Jeff W. Rosen, Esq.
Jeffrey A. Hunn, Esq.
Pender & Coward
222 Central Park Ave.
Virginia Beach, VA 23462
jrosen@pendercoward.com
jhunn@pendercoward.com
Counsel for Defendants Hampton Roads Regional Jail Authority, Hampton Roads Regional Jail, David Simons, Eugene Taylor, III, Officer Gibbs, Officer Hilliard, Officer Howard, Officer Keister, Officer Powell, MJO Smith, MJO Johnson, Sgt. T. Phillips, Sgt. Tamara Everett, Lt. Roderick Madison, Capt. Felicia Cowan

Nicholas F. Simopoulous, Esq.
Alexander K. Page, Esq.
Office of the Virginia Attorney General
202 North 9th Street
Richmond, VA 23219
Nsimopoulos@oag.state.va.us
Apage@oag.state.va.us
Counsel for Defendants Lenna Jo Davis and Kelly N. Boyd

David P. Corrigan, Esq.
Jeremy D. Capps, Esq.
Harman, Claytor, Corrigan & Wellman
P.O. Box 70280
Richmond, VA 23255
dcorrigan@hccw.com
jcapps@hccw.com
sfisher@hccw.com
Counsel for Defendant Debra K. Ferguson

Mark Richard Colomell, Esq.
William W. Tunner, Esq.
Michael G. Matheson, Esq.
William D. Prince, IV, Esq.
ThompsonMcMullan, P.C.
100 Shockoe Slip, 3rd Floor
Richmond, Virginia 23219
mcolombell@t-mlaw.com
wtunner@t-mlaw.com
mmatheson@t-mlaw.com
wprince@t-mlaw.com
Counsel for Defendants Officer Dale Barnes, Officer Blakely, Officer Bourne, Derrick Brown, Officer Butcher, MJO Dixon, Sgt. William A. Epperson, Officer Whitaker, Sgt. Steven W. Whitehead, and Lt. Reginald Whitehead

/s/

Edward J. McNelis, III, VSB No. 34003
Grace Morse-McNelis, VSB No. 75957
Christopher F. Quirk, VSB No. 88238
RawlsMcNelis, PC
211 Rocketts Way, Suite 100
Richmond, VA 23231
(804) 344-0038 (phone)
(804) 782-0133 (fax)
emcnelis@rawlsmcnelis.com
gmorsemcnelis@rawlsmcnelis.com
cquirk@rawlsmcnelis.com
Counsel for Defendants NaphCare, Inc., Renee Edwards, LCSW, Justin Ray, NP-Psych, Benedict Ngwa, NP, Pam Johnson, RN, Natalya Thomas, RN, HSA, Jalessa Rivers, LPN, Hope Nicholson, MA and Doris Murphy, MSW, and Nsekenene Kolongo, MD